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August 19, 2014

BY ECF and FAX (212-805-6724)

Hon. Frank Maas
U.S. Magistrate Judge
Southern District of New York
United States District Court
500 Pearl St.
New York, NY 10007-1312

Re: Kriss, et al., v. Bayrock Group, LLC et al., 13 CV 3905 (LGS)

Dear Judge Maas:

This firm is co-counsel to defendant Felix Sater and we write in brief opposition to the letter of plaintiffs' counsel Richard Lerner, dated August 14, 2014 but served and filed in the late afternoon of Friday, August 15, 2014.

Plaintiffs' request is just the latest of their continuous efforts to game the process and to act as though the rules apply to everyone else except them. FRCP 4(m) prescribes service within 120 days absent good cause. Plaintiffs claim they have not been unable to file their amended complaint; but rather they have simply chosen not to do so for strategic reasons. As their conduct has repeatedly demonstrated, plaintiffs prefer to have a lawsuit exist that is not subject to attack. There is absolutely no good cause for an extension, particularly where they waited until the 113th day even to ask for an extension.

In any event, plaintiffs seek to confuse the issue with their focus on service. We have requested only, on behalf of defendant Sater, that he and his counsel be permitted (through a court directive to the Clerk or to plaintiffs' counsel or both) to view the Amended Complaint "stamped in" on May 21, 2014, according to plaintiffs' counsel, asserting allegations against him. Due process requires nothing less, and plaintiffs have not articulated any legally cognizable reason otherwise (apart from purported reliance on a directive from Your Honor not to "disseminate" certain contents, which the Court should clarify as inapplicable to parties). After review, we may seek a pre-motion conference or other relief, but that is not at issue at the moment. We do note, however, that plaintiffs cite no authority for the proposition that a motion to dismiss cannot be made before a class is certified, nor for the proposition that in a multi-defendant case, all defendants need to be served simultaneously and/or have answers due on the same schedule.

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Our request is simply based upon fundamental fairness and should be routinely granted. A defendant should be able to see the contents of a pleading against him. Anything that may flow from that should be addressed thereafter.

Thank you for your consideration.

Respectfully,



Robert S. Wolf

cc (by ECF and fax): Frederick M. Oberlander, Esq.
Richard E. Lerner, Esq.
Nader Mobargha, Esq.